Approved 7/11/2013

Brunswick Zoning Board of Appeals
Meeting Minutes
August 23, 2012

Members Present: William Lamb, John Poutree, Sande Updegraph, Nicholas Livesay and David Giles

Staff Present: Jeffrey Hutchinson, Codes Enforcement Officer

A meeting of the Zoning Board of Appeals was held on Thursday, August 23, 2012 at the Municipal Meeting Facility at Brunswick Station, 16 Station Ave. Chairman William Lane called the meeting to order at 7:30 P.M.

Codes Enforcement Officer, Jeff Hutchinson reviewed the staff's comments for the board and cited the criteria for a variance by reviewing his Zoning Board of Appeals Application Review dated August 10, 2012.

Case #2327 – Kevin McIntyre

1. In accordance with Section 703.2 A and 305.5B of the Brunswick Zoning Ordinance, Kevin McIntyre, 5 Remington Way, Brunswick, Maine is requesting a dimensional variance of five (5) feet on the left side property line to reduce the side setback for a detached accessory structure from ten (10) feet to five (5) feet, to build a 10" by 12" single=story detached storage shed on the property located at 5 Remington Way, Map 26, Lot 124 in the Residential 3 (R3) zoning district.

COMMENTS:

In accordance with section 305.B, the minimum requirement for a side setback for an accessory detached structure is ten (10) feet. Kevin McIntyre, 5 Remington Way, Brunswick, Maine is requesting a dimensional variance of five () feet on the left side property line to reduce the side setback for a detached accessory structure from ten (10) feet to five (5) feet, to build a 10' X 12' single-story detached storage shed on the property located at 5 Remington Way. When hearing this appeal application, the Board should refer to ***Section 703.2.A Variances.*** *The Zoning Board of Appeals may grant a setback variance for a detached accessory structure only when strict application of this Ordinance to the applicant and the applicant's property would cause undue hardship. The term "undue hardship" as used in this subsection means:*

703.2.A criteria:

1. That the land in question cannot yield a reasonable return unless a variance is granted.
2. That the need for the variance is due to the unique circumstances of the property and not the general conditions of the neighborhood.
3. That the granting of the variance will not alter the essential character of the locality; and
4. That the hardship is not the result of action taken by the applicant or a prior owner.

William Lamb opened the Public Hearing.

William Lamb asked the applicant, Kevin McIntyre of 5 Remington Way to state his case or add any additional information hat may be necessary to make the necessary decision. Kevin stated that his explanation to addressing the four criteria as detailed in a letter dated July 26, 2012 indicating the unique lot makes it difficult to designate front yard or backyard.

William Lamb indicated that Mr. McIntyre already has a storage area, and asked if that was the storage shed. Kevin McIntyre stated that he had ordered the shed prior to filing the application and the shed arrived on July 19, 2012

Sande Updegraph referred to the letter from the rear abutter and asked if Mr. Intyre had spoken to neighbors to the side of his property and Mr. McIntyre responded that they had read the notification and had no issues.

Sande Updegraph asked staff of there were different standards for different size lots. Codes Enforcement Office Jeff Hutchinson stated that the shape of the property would have one (1) front setback and two (2) side setbacks and no back setback. It has a detached accessory structure, is not a single family and not attached to the house. It would be a uniform standard for this neighborhood, approved and constructed under the current ordinance.

William Lamb closed the public hearing.

Deliberation

Sande Updegraph stated she believed the placement to be more pleasing and appropriate in this case and appreciates the letter received from the rear abutter and comments presented from a realtor.

Nicholas Livesay stated that it was a very well prepared application and he was willing to assume that it is the very best location in terms of abutters and resale value. Regarding the question of hardship, the property is yielding a return, doesn't meet the test and he does not think the application meets the standard.

William Lamb stated he was concerned and confused about the presence of the storage shed, and agreed with Nicholas Livesay.

John Poutree read the variance criteria.

> 1. *That the land in question cannot yield a reasonable return unless a variance is granted.*
>
> **This motion denied 1-4.**
>
> 2. *That the need for the variance is due to the unique circumstances of the property and not the general conditions of the neighborhood.*
>
> **This motion carried 4-1.**
>
> *3. That the granting of the variance will not alter the essential character of the locality, and*
>
> **This motion carried 4-1**

4. That the hardship is not the result of action taken by the applicant or a prior owner.

This motion carried 4-1

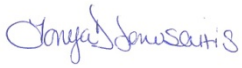
Appeal denied on basis of 1-4 vote.

<u>Minutes</u>
MOTION MADE BY SANDE UPDEGRAPH TO APPROVE THE MINUTES OF MAY 17, 2012. SECONDED BY JOHN POUTREE, APPROVED UNANIMOUSLY.

The meeting was adjourned at 8:10pm.

Attest:
Joan Edwards
Recording Secretary

Amended by



Tonya Jenusaitis
Recording Secretary
On 7/11/2013